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Letter dated 3 December 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 18 July 2003 (S/2003/742).

The Counter-Terrorism Committee has received the attached third report from Viet Nam submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

03-65817 (E) 020104

Annex

Note verbale dated 2 December 2003 from the Permanent Mission of Viet Nam to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

The Permanent Mission of the Socialist Republic of Viet Nam to the United Nations presents its compliments to the Chairman of the Counter-Terrorism Committee and with reference to his letter dated 27 June 2003 has the honour to submit the updated report requested (see enclosure).

Enclosure

SOCIALIST REPUBLIC OF VIETNAM

SECOND SUPPLEMENTARY REPORT
TO THE COUNTER-TERRORISM COMMITTEE OF THE UNITED NATIONS SECURITY COUNCIL PURSUANT TO PARAGRAPH 6 OF SECURITY COUNCIL'S RESOLUTION 1373 (2001)

Vietnam's response to the questions of the Counter-terrorism Committee of the United Nations Security Council contained in the letter No. S/AC40/2003/MS/OC284 dated 27 June 2003 regarding the implementation of the Security Council's Resolution 1373 (2001) appears as follows:

1. IMPLEMENTATION MEASURES:

1.1. The CTC has agreed on further questions and comments for the consideration of the Government of Vietnam with regard to the implementation of the Resolution, as set out in this section.

1.2. Regarding the criminalization of terrorist financing and the prosecution of offenders:

1.2.1. Criminalization of terrorist financing: The CTC has noted that Vietnam has ratified the UN Convention for the Suppression of the Financing of Terrorism. The Committee would be grateful for a report on the enactment and implementation in Vietnamese law of this international instrument. Please outline the provisions contained in the new legislation and indicate what further steps still need to be taken.

Vietnam's response:

According to the Ministry of Justice's General Report on the Evaluation of the Needs for Comprehensive Development of the Vietnamese Legal System up to the Year 2010 and the Draft Strategy for Development of Vietnamese Legal System up to the Year 2010, which is being finalized by the Ministry of Justice in cooperation with other concerned ministries, the Penal Code will be amended so that the provisions on counter-terrorism under the international treaties to which Viet Nam is a party, including the UN Convention for the Suppression of the Financing of Terrorism, be transformed into the Vietnamese law.

1.2.2. General requirements of paragraph 1 (c) and (d): The legislation provided by Vietnam (Article 7 of Governmental Decree No. 87/CP and 27 of Decree No. 20/2002/ND-CP) does not relate to the requirements of these sub-paragraphs. The CTC would welcome receiving particulars of the legal provisions which Vietnam has put in place to comply with these requirements. In their absence, the CTC would be glad to receive and indication of the remedial action which Vietnam intends taking in this regard.

Vietnam's response:

a. Although Vietnam has not yet enacted any separate legal instruments to prohibit Vietnamese nationals or any person or entity in Vietnam from making funds and other financial resources

available to persons or entities linked to terrorist activities, those who commit this act may be prosecuted pursuant to the Article 84 (terrorism) of the Penal Code as the helper[1].

b. Vietnam has detailed provisions regulating the depositing, withdrawing and payment of foreign currencies by individuals and entities of Vietnam, the opening domestic and overseas accounts and the purposes for which foreign currencies of those accounts are used and the transferring of foreign currencies into and out of Vietnam (please refer to paragraph B (I) (3) (a) of the Supplementary Report dated 18 December 2002). These provisions shall restrict individuals and entities in Vietnam to use foreign currencies for illegal purposes, including the financing of terrorism.

In addition, Vietnam also laid out some restrictions and provisions on the movement of precious commodities (which may be done for the purpose of making funds and other financial resources available to persons or entities linked to terrorist acts), such as some provisions of Decision No. 416-1998/QD-NHNN7 dated 08 December 1998 of the Governor of the State Bank on the bringing of gold by individuals when entering into or departing from Vietnam, in particular:

- "*Individuals when departing from or entering into Vietnam will not have to declare at the Vietnam's border checkpoints if they bring along gold for non-commercial purposes with maximum weight of 300 gram (or besides the wearing jewelry, the quantity of each type not exceeding 5 pieces or 5 sets, in case of jewelry)*" (Article 2).

- "*Individuals who bring gold (not of international standard) with the amount exceeding the maximum weight prescribed under Article 2 of this Decision but not exceeding 3000 gram when entering into Vietnam shall declare and pay tax for the exceeded amount in accordance with the relevant regulations. In case of exceeding 3000 gram, they shall complete the necessary procedures to lodge the excesses in the customs warehouse in order to bring them back when departing or to send them abroad. These individuals shall bear the arising costs*" (Article 3).

- "*Individuals who bring more than 300 gram of gold when departing from Vietnam shall apply for permission by the State Bank of Vietnam on the amount exceeding 300 gram*" (Article 4).

- "*Procedure to apply for permission to bring gold when departing from Vietnam.*

Individual who wants to apply for permission to bring gold when departing from Vietnam under Article 4 of this Decision shall file its documents to the Central State Bank or the local branches of the State Bank in the districts or cities in accordance with the authorities to grant permission as prescribed under Article 6 of this Decision. The documents shall include:

1. An application to bring gold (which clarifies the purposes to bring gold);

2. Other documents specifying the origins of the gold to be brought (if any);

3. Certified copy of passport (if the passport copy is not certified, the original passport must be presented for reference)" (Article 5).

1.2.3. Paragraph 2 (d) of the Resolution 1373 also stipulates that: "All States shall prevent those who finance, plan, facilitate or commit terrorist acts from using their respective territories for those purpose against other states or their citizens". However, it would appear from Vietnamese legislation, as described in Vietnam's report (Article 2, 5 and 84 of the Penal Code), that penal

[1] According to the Penal Code, "the helpers are those who create spiritual or material conditions for the commission of crimes" (Article 20 - Complicity).

provisions do neo appear to exist in Vietnamese law with a view to criminalizing the preparation of terrorist acts on Vietnamese territory for commission abroad. Could Vietnam indicate the steps which it proposes taking to remedy the situation?

Vietnam's response:

a. Vietnam has not yet enacted any particular provisions on the activities implemented in the Vietnamese territory in preparation for terrorist acts to be committed in the territory of other countries. However, those who commit this act may be prosecuted for the penal liability pursuant to the Penal Code as the person preparing for the commission of terrorism, provided that the commission abroad of those terrorist acts is aimed at "opposing the Vietnamese people's administration" and "causing difficulties to the international relations of the Socialist Republic of Vietnam"[2]. Accordingly, Article 17 of the Penal Code provides that:

"*Article 17. Preparation for crime commission*

Preparation for crime commission is to search for prepare instruments or create other conditions for committing crimes.

Persons who prepare for the commission of a very serious crime or a particularly serious crime shall bear penal liability for their attempted crime."

1.2.4. **Competence of the courts**: The CTC would be grateful to receive the provisions in Vietnamese law which provide for the prosecution and trial of an offender, whether a Vietnamese national or a foreigner, who has committed an offence outside Vietnam.

Vietnam's response:

The prosecution and trial of an offender, whether a Vietnamese national or a foreigner, who has committed an offence outside Vietnam are governed by the provisions of the Penal Code and the Criminal Procedure Code. Those are:

a. Article 6 of the Penal Code:

"*1. Vietnamese citizens who commit offences outside the territory of the Socialist Republic of Vietnam may be examined for penal liability in Vietnam according to this Code.*

This provision also applies to stateless persons who permanently reside in the Socialist Republic of Vietnam.

2. Foreigners who commit offences outside the territory of the Socialist Republic of Vietnam may be examined for penal liability according to the Penal Code of Vietnam in circumstances provided for in the international treaties to which the Socialist Republic of Vietnam is a party."

b. Paragraph 2 of Article 146 (territorial jurisdiction) of the Criminal Procedure Code:

"*In respect to an offence committed abroad by the accused to be tried in Vietnam, a provisional court of the last domicile of the accused shall have jurisdiction over the case. Should such last domicile is uncertain, the President of the Supreme People's Court shall, depending on each circumstance, by mean of a decision, designate Hanoi City People's Court or Ho Chi Minh City People's Court to try that case.*

In respect to an offence committed abroad by the accused falling under jurisdiction of military court, zonal military courts or military court of higher level shall have jurisdiction over the case by decision of the President of the High Military Court."

[2] Article 84 (terrorism) of the Penal Code.

c. Article 147 (jurisdiction over offences committed on board of aircraft, vessels of the Socialist Republic of Vietnam while situating outside of the territory of the Socialist Republic of Vietnam) of the Criminal Procedure Code stipulates as follows:

"Offences committed on board of aircraft, vessel of the Socialist Republic of Vietnam while outside Vietnam territory shall fall under jurisdiction of a Vietnam's court of the location of airport or seaport where such aircraft or vessel would make their first arrival or court where those aircraft, vessel has been registered."

1.3. Regarding the protection of the economic and financial system:

1.3.1. Preventing criminal transactions: The CTC has noted that Vietnam has legislation regulating foreign exchange and banking activities. However, it is not clear from the report whether Vietnam has machinery in place to detect and prevent financial transactions linked to criminal activities and, in particular to terrorist purposes. The CTC would appreciate receiving more information concerning the relevant Vietnamese legislation. In particular, the Committee would be grateful for further information, as follow:

- What are the criteria by which transaction are characterized as unusual or suspicious in Vietnam?
- What kind of measures should an intermediary taken when he detects a suspicious transaction? Can suspect funds be frozen? If the answer to the previous question is in the affirmative, what procedures should be follow?
- Is an obligation to report suspicious transactions imposed on financial intermediaries, such as real estate agents, lawyers and accountants?
- What penalties are prescribed for not reporting suspicious financial transactions?
- To which authorities should these reports be submitted? Can Vietnam describe the competences and functions of the relevant authorities?

Vietnam's response:

a. The existing legal instruments of Vietnam do not stipulate specific criteria by which any transaction is characterized as unusual or suspicious. However, the draft Decree against Money Laundering (elaborated by the State Bank of Vietnam, planned to be promulgated by the end of 2003 or the beginning of 2004) shall set out these criteria.

In accordance with the above-mentioned draft Decree, the transactions on bank accounts or transferring funds to bank accounts of holders whose names are included in the list of international criminals or of terrorist individuals or entities named in the warning lists of international organizations are considered suspicious transactions.

b. Regarding suspicious transaction reporting procedure (relating to funds for terrorist acts, frauds, money laundering...), including the procedure on reporting of suspicious transactions by financial intermediaries, beside Article 19 of the Law on Credit Organizations and Article 36 of Decree No. 63/1998/ND-CP dated 17 August 1998 on Foreign Exchange Management (as set out in the Supplementary Report dated 18 December 2002), up to now, Vietnam has not yet enacted any legal instruments included specific provisions on the above-mentioned transactions.

In the implementation of Article 18 of the UN Convention for the Suppression of the Financing of Terrorism, Vietnam shall adopt provisions to oblige financial institutions to promptly report to the competent authorities all complicated, transactions of unusual patterns and those involving large amount, which have no apparent economic or obviously lawful purpose, without fear of being held for criminal or civil liability for breach of any restriction on disclosure of information if they report their suspicions in good faith.

In addition, detailed provisions relating to the reporting and analyzing information on suspicious transactions are also stipulated in the draft Decree against Money Laundering.

c. The draft Decree against Money Laundering also includes provisions on the penalties to be applied to the failure of reporting suspicious financial transactions.

d. In accordance with the above-mentioned draft Decree, the Suspicious Transaction Reporting Office under the State Bank of Vietnam shall be established, which is a specialized agency designated to collect and analyse financial information. And, financial institutions are bound to report suspicious transactions to this Bureau.

1.3.2. **Identification of customer**: What are the verification procedures which are legally biding on financial intermediaries with a view to determining the "economic ownership" of bank accounts or financial assets? If such obligations exist, have financial intermediaries ever been convicted in Vietnam for "inadequate vigilance" in relation to the verification of economic ownership?

Vietnam's response:

a. In accordance with existing provisions, financial intermediaries shall identify their customers before, during and after the process of lending of funds. In addition, the identification of customer is also implemented pursuant to Article 4 (record of deposit account opening) and Article 5 (account opening application form) of the Statute for Opening and Utilizing Deposit Account at the State Bank and Credit Institutions, which was promulgated under the Decision No. 1284/2002/QD-NHNN2 dated 21 November 2002 of the Governor of the State Bank of Vietnam.

b. The draft Decree against Money Laundering shall provide more specifically procedure on obligatory verification with a view to identify customers, as well as penalties to be applied to cases of failing to implement this obligation.

1.3.3. **Alternative money transfer**: Please outline the Vietnamese legal provisions which regulate the activities of alternative money transfer agencies or services. In the absence of such provisions, could Vietnam outline the steps which it proposes taking in order to give effect to this aspect of the Resolution in its domestic law.

Vietnam's response:

At present, Vietnamese competent authorities have promulgated legal instruments on granting license to individuals and entities in carrying out payment and transferring services or other banking services. Those who provide these services without license shall be fined in accordance with the Decree No. 20/2000/ND-CP dated 15 June 2000 on Sanctioning Administrative Violations in the Monetary Field and Banking Operations. Vietnamese competent authorities have also been implementing restrictive and preventive measures against illegal transferring forms.

1.4. Regarding the international cooperation:

1.4.1. **Legal assistance**: The CTC has noted that Vietnam lacks specific legislation in relation to mutual legal assistance and extradition. In addition, Vietnam has concluded very few bilateral treaties. How then can Vietnam meet its obligation under sub-paragraphs 2 (f) and 3 (c) of the Resolution with a view to providing assistance and cooperation to all other countries?

Vietnam's response:

a. Beside concluded Agreements on Legal Assistance in Criminal Matters between Vietnam and other countries (please refer to the Supplementary Report dated 18 December 2002), on 15 September 2003, Vietnam signed two Agreements on Legal Assistance in Criminal Matters and on Extradition between Vietnam and the Republic of Korea. Vietnam is also in the process of negotiation on agreements of these kinds with many countries, such as Canada, India and the Philippines...

Although Vietnam has not concluded many bilateral treaties in relation to mutual legal assistance, we are cooperating closely and effectively with other countries in this matter, on the following legal basis:

- Bilateral agreements on cooperation for prevention and suppression of crimes between the Ministry of Public Security of Vietnam and its counterparts of other countries;

- Bilateral treaties concluded between Vietnam and neighbouring countries relating to security and order protection, border control...;

- In case of absence of bilateral treaties, Vietnamese relevant authorities shall directly discuss with their counterparts of related countries to reach agreement for appropriate solutions, in accordance with their respective domestic law and international law.

b. The Criminal Procedure Code (as amended), which was adopted by the National Assembly in November 2003, includes a new Chapter for the international cooperation in criminal procedure related activities which provides principles for international cooperation during criminal investigation, prosecution, trial and execution process.

1.4.2. **International terrorist conventions**: The CTC is aware that Vietnam has ratified 8 of the 12 principal international conventions relating to terrorism. Could Vietnam outline the provisions which give effect to these international instruments in its domestic legislation? The CTC would also appreciate receiving an account of the penalties prescribed under Vietnamese criminal law in relation to those offences which are required to be established as crimes under the provisions of the Conventions and Protocols.

Vietnam's response:

a. According to the Ministry of Justice's General Report on the Evaluation of the Needs for Comprehensive Development of Vietnamese Legal System up to the Year 2010 and the draft Strategy for Development of the Vietnamese Legal System up to the Year 2010, which is being finalized by the Ministry of Justice in cooperation with other concerned ministries, the Penal Code will be amended to include Viet Nam's rights and obligations relating to counter-terrorism under the international treaties to which Viet Nam is a party.

b. Beside Article 84 (terrorism), the Penal Code also includes provisions on the offences established as crimes under the provisions of the multilateral treaties to which Vietnam is a parties. Those are:

- Article 82. Rebellion

> *"Those who conduct armed activities or resort to organized violence with a view to opposing the people's administration shall be penalized as follows:*
>
> *1. Organizers, active participants or those who cause serious consequences shall be sentenced to between twelve and twenty years of imprisonment, life imprisonment or capital punishment;*
>
> *2. Other accomplices shall be sentenced to between five and fifteen years of imprisonment."*

- Article 83. Conducting banditry activities

> *"Those who intend to oppose the people's administration by conducting armed activities in mountainous, marine and other difficult to access areas, murdering people and looting or destroying property shall be penalized as follows:*

1. Organizers, active participants or those who cause serious consequences shall be sentenced to between twelve and twenty years of imprisonment, life imprisonment or capital punishment;

2. Other accomplices shall be sentenced to between five and fifteen years of imprisonment."

- Article 85. Sabotaging the material-technical foundations of the Socialist Republic of Vietnam

"1. Those who intend to oppose the people's administration by sabotaging the material-technical foundations of the Socialist Republic of Vietnam in the political, security, defense, scientific-technical, cultural or social fields shall be sentenced to between twelve and twenty years of imprisonment, life imprisonment or capital punishment.

2. In the case of committing less serious crimes, the offenders shall be sentenced to between five and fifteen years of imprisonment."

- Article 221. Hijacking aircrafts, ships

"1. Those who use force, threaten to use force or use other tricks to appropriate aircrafts or ships shall be sentenced to between seven and fifteen years of imprisonment.

2. Committing the crime in one of the following circumstances, the offenders shall be sentenced to between twelve years and twenty years of imprisonment:

a) In an organized manner;

b) Using weapons or dangerous means;

c) Inflicting injury on or causing harm to the health of other persons;

d) Dangerous recidivism.

3. Committing the crime and causing human death or other particularly serious consequences, the offenders shall be sentenced to twenty years imprisonment, life imprisonment or capital punishment.

4. The offenders may also be subject to probation or residence ban for between one and five years."

1.4.3. **Transnational crime**: In its report, Vietnam indicates that it is aware of the strong links between organized crime and terrorism and it is intending to ratify the UN Convention on Transnational Organized Crime. Can Vietnam indicate what has been done since its last report.

Vietnam's response:

At the present, the Ministry of Justice, in collaboration with other relevant agencies, is studying the provisions of the UN Convention on Transnational Organized Crime (signed by Vietnam on 22 December 2000) to submit for ratification in the coming time.

2. ASSISTANCE AND GUIDANCE:

2.1. The CTC is eager to facilitate the provision of assistance and advice in connection with the implementation of the Resolution. The Committee would encourage Vietnam to let it know if there are areas in which assistance or advice might be of benefit to Vietnam in its implementation of the Resolution or of any areas in which Vietnam might be in a position to offer assistance or advice to other States on the implementation of the Resolution.

Vietnam's response:

In the implementation of the Resolution 1373 (2001), with the aim to strengthening its legal framework and promoting institutional capacity for counter-terrorism, Vietnam seeks assistance in the following areas:

- Reviewing and analysing existing legal provisions relating to counter-terrorism financing, with the aim to identifying the needs and contents to be completed and supplemented.

- Assistance in elaboration and implementation of legal documents relating to counter-terrorism financing.

- Strengthening capacity of officials directly involved in the elaboration and implementation of legal documents relating to counter-terrorism financing, in such forms as training, conference...

- Assistance and guidance in establishment of a focal point for counter-terrorism financing.

- Assistance in compiling database and establishment of information analysis center for the purposes of supervision and control of financial activities in relation to terrorism financing activities, especially methods of information collecting and analyzing, related-terrorist crime investigating ...).

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Letter dated 4 December 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 6 June 2003 (S/2003/627).

The Counter-Terrorism Committee has received the attached third report from Jordan submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

03-65775 (E) 020104 311203

Annex

Letter dated 3 December 2003 from the Permanent Representative of Jordan to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

With regard to your letter dated 30 May 2003, I have the honour to forward to you Jordan's second supplementary report pursuant to paragraph 6 of Security Council resolution 1373 (2001) (see enclosure). I hope that the said report will answer the Committee's comments/questions.

(*Signed*) Zeid Ra'ad Zeid **Al-Hussein**
Ambassador
Permanent Representative

Enclosure

[Original: Arabic]

Second supplementary report of the Hashemite Kingdom of Jordan submitted to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001)*

Jordan's second supplementary report to the Security Council Committee established pursuant to resolution 1373 (2001) (Counter-Terrorism Committee) is of special importance, coming as it does in the wake of the terrorist attack carried out against the headquarters of the Jordanian embassy in Baghdad on 14 August 2003, which took with it dozens of innocent victims. That event, however, and the terrorist attacks committed against Jordan and its nationals during the past few years will only increase Jordan's determination to combat the plague of terrorism. The present report contains a further dimension, namely Jordan's ratification of the International Convention for the Suppression of the Financing of Terrorism. Jordan will continue its national counter-terrorist efforts at the various levels in accordance with Security Council resolution 1373 (2001).

The following report was prepared in response to questions contained in the Committee's note S/AC.40/2003/MS/OC of 30 May 2003.

1.2. Progress report on the draft act to combat money-laundering and, in particular, its provisions concerning funds emanating from terrorist activities or funds that may be used to finance terrorism

The Government of Jordan accords high priority to this draft. The Bureau of Legislation of the Office of the Prime Minister, which is charged with the study of laws, has completed the study of this draft, now in the final stages preparatory to its submission to Parliament for discussion and adoption.

Regarding legal provisions, article 2 of the draft defines illegal funds as follows: "Illegal funds: any funds arising directly or indirectly from any criminal act within the meaning of article 3 of the present Act".

Article 3 of the draft contains the following provisions:

For the purposes of the present Act, funds shall be deemed illegal if they emanate from any of the following offences:

(a) Traffic in narcotic drugs;

(b) Illicit traffic in arms and ammunition;

(c) Terrorism in violation of the Penal Code;

(d) Kidnapping of persons or holding of them hostage for the purpose of extortion, in violation of the law;

(e) Offences committed in contravention of the provisions of the Economic Offences Code;

(f) Any other offences considered under the laws concerning them as involving money-laundering;

* Any attachments are on file with the Secretariat and are available for consultation.

(g) Any criminal act involving money-laundering that is criminally sanctioned under the legislation in force in the Kingdom.

Article 4 of the draft provides as follows:

Any and all of the following acts shall be considered as money-laundering:

(a) Concealing the true source or whereabouts of illegal funds or camouflaging such funds by altering or converting them;

(b) Concealing the ownership of illegal funds or providing misleading information regarding such ownership;

(c) Owning or possessing illegal funds or using or investing such funds in order to purchase movable or immovable property or to carry out financial transactions, in the awareness that they are illegal funds.

Regarding the powers of the Attorney-General, article 9 (b) provides as follows:

(b) The Attorney-General may exercise the following powers in the performance of his duties:

1. Observation of funds suspected of being illegal and keeping track of such funds by all necessary means for that purpose;

2. Preventive attachment of illegal funds and issuance of any and all orders to prevent the disposal thereof;

3. Stopping of the completion or performance of any contract, transaction or work that may involve or be connected with illegal funds;

4. Preservation, in accordance with the requirements of the investigating authority, of any documents connected with illegal funds.

The penalties imposable pursuant to the draft act are provided for in article 10, as follows:

(a) Without prejudice to any severer penalty stipulated in any other legislation, the offence of money-laundering shall be punishable by imprisonment for not less than one year and not more than three years, a fine of up to 1 million dinars or both and the funds in question shall be confiscated. The penalty shall be doubled in case of a repeated offence;

(b) Complicity or intervention in or abetting of crimes of money-laundering shall be subject to the same penalty as the principal offence;

(c) In cases other than those provided for in paragraph (a) of this article, any violation of the provisions of this act shall be punishable by at least six months' imprisonment or a penalty of not less than ten thousand dinars.

1.3. The provision or collection of funds in any manner with the intention that they should be used to carry out terrorist acts

The provisions of the penal laws themselves cover the related questions raised by the Committee, inasmuch as the competent courts do not face any difficulties in this regard. Nonetheless, the Government's ratification of the International Convention for the Suppression of the Financing of Terrorism through the promulgation of Provisional Law No. 83 of 2003 (Law ratifying the International

Convention for the Suppression of the Financing of Terrorism) fully satisfy the Committee's questions. Indeed, under the ratification law, the Convention and all its provisions became part of Jordan's national law; consequently, the courts are bound to apply its provisions on an equal basis with other existing legislation.

1.4. Legal provisions in force which regulate the operation of alternative money transfer agencies or services

There are no legal provisions on alternative money transfer services and no such agencies are licensed by the Central Bank. However, such activities will come under the legal regulations for combating money-laundering once the act becomes law.

1.5. Legal provisions relating to lawyers, accountants and notaries who engage in brokering activities

It must be pointed out to the Committee that professions such as accounting and the practice of law are regulated in Jordan by special laws, such as the Bar Association Act and the Organization of the Accounting Profession Act, under which lawyers and accountants are prohibited from engaging in brokering activities or entering into commercial transactions on pain of punishment, withdrawal of their professional licence, the imposition of fines and imprisonment for various terms. The brokerage sector, on the other hand, is governed by a law specific to it, namely the Commercial Agents and Intermediaries Act (Act No. 28 of 2001).

1.6. The competent body within the Central Bank to which suspicious transactions are to be reported

The Bank Supervision Department within the Central Bank is the body to which banks are required to report suspicious transactions. In addition, as soon as the money-laundering act is promulgated, another, unrelated, unit is to be established to deal with suspicious financial transactions involving money-laundering.

1.7. The directive of the Governor of the Central Bank of Jordan concerning the freezing of funds suspected of being linked to terrorism is based, as mentioned previously, on powers laid down in the Banking Code. Consequently, the Central Bank has the power to stop, for a period of 30 days, the execution of any banking operation or the receipt or payment of any sum of money that is or may be connected with terrorist acts. It may also notify the judicial authorities to undertake an investigation with a view to the freezing of the funds, in which case, as previously mentioned, the Attorney-General has the power to effect the attachment under the Penal Code (article 147).

1.8. In answer to the Committee's question whether the Government of Jordan can freeze the assets of persons if there is reasonable cause to suspect that they are connected with terrorism or terrorist groups, the Government can do so only if such suspicions are backed up by strong material and circumstantial evidence on the strength of which the Attorney-General can use the powers granted him in article 147 of the Penal Code.

1.9. Unlawful recruitment and representation that such recruitment is for lawful purposes

Article 141 of the Penal Code comes under a special heading, i.e., offences committed against the security of the State. In view of the gravity of such offences, the Code provides that the penalty for plotting or abetting such crimes is the same as for the principal offence.

Unquestionably, deceiving persons and misrepresenting the purposes of an act as lawful with a view to committing an unlawful act is one of the forms of abetting and plotting, and the law, particularly in the case of such offences, sanctions the motive and the intention, even if not translated into concrete acts. Indeed, article 139 of the Penal Code provides as follows:

> Plotting to commit any offence referred to in the articles of this chapter shall be punishable by the same penalty as that imposed thereunder for the actual perpetration of the offence.

1.10. The possession and carrying of, and dealing in, firearms are regulated by the Firearms Act, as follows:

> No person shall manufacture firearms or ammunition within the Kingdom except by permit from the Council of Ministers.
>
> No person shall import, export or deal in arms or ammunition within the Kingdom unless licensed to do so by the Minister of the Interior or a person delegated thereby.
>
> It is not permissible to export weapons from the Kingdom.
>
> It is absolutely forbidden to carry, sell, buy or possess guns of any type.

Article 5 of the 1975 regulation on trading in arms specifies the conditions for the granting of a licence for dealing in arms.

The Firearms Act provides deterrent penalties for anyone who violates its provisions. Article 11 of the Act contains the following provisions:

> Anyone who, without authorization, manufactures, imports, possesses, transports, sells or purchases or serves as an intermediary for the purchase or sale of any gun or automatic weapon for the purpose of using it in an unlawful manner shall receive the death penalty.
>
> Anyone who, without authorization, manufactures, imports, exports or attempts to export firearms or ammunition shall be subject to a penalty of hard labour for a term not less than 15 years, and the weapons shall be confiscated.
>
> Anyone who violates any other provision of this Act or any regulation issued in pursuance hereof shall be subject to a penalty of imprisonment for a term of up to three years, and the weapons shall be confiscated.

The Act defines explosives as including all types of explosive substances. The term "explosive material" comprises all explosives, whatever their nature, devices for exploding them, caps, fuses, detonators, potassium nitrate (saltpetre), sodium nitrate (Chile saltpetre), potassium chlorate, ammonium chlorate and nitroglycerins, nitroglucoses, nitrocelluloses and nitrophenols of all types.

Pursuant to article 148 of the Act, amended by Act No. 54 of 2001, a penalty consisting in a term of imprisonment with hard labour is imposed on any person who knowingly manufactures, procures or transports explosive or inflammable materials

or poisonous, incendiary, infectious, bacteriological, chemical or radioactive agents or the like or any components thereof for the purpose of carrying out terrorist acts or enabling another person to use them for such purpose.

Within the framework of Arab cooperation to combat traffic in arms, article 2 of the Arab Convention for the Suppression of Terrorism, signed in 1998, provides that the crimes of manufacturing, smuggling or possessing weapons, ammunition, explosives or other materiel or materials prepared for the perpetration of terrorist offences shall not be regarded as political offences, even if committed for political motives.

Under article 3 of the Convention the Arab States undertake to develop and strengthen systems for the detection of the transport, importation, exportation and stockpiling of weapons, munitions and explosives and of other means of aggression, murder and destruction as well as procedures for monitoring their passage through customs and across borders in order to prevent their transfer from one Contracting State to another or to third-party States other than for confirmed lawful purposes.

Within the framework of measures of suppression, the Arab States have undertaken to arrest the perpetrators of terrorist offences and to prosecute them in accordance with national law or extradite them in accordance with the provision of the Convention or of any bilateral treaty between the requesting State and the requested State.

Article 4 provides that Contracting States shall cooperate for the prevention and suppression of terrorist offences through the exchange of information concerning the activities and crimes of terrorist groups; the sources of their funding; the types of weapons, munitions and explosives used by them; and other means of aggression, murder and destruction.

Under the Convention, each Contracting State undertakes to furnish any other Contracting State with any information or data in its possession that might lead to the seizure of any weapons, munitions or explosives or any devices or funds used or intended for use in the commission of a terrorist offence.

The Convention has been ratified by Jordan.

1.11. The Committee's request to receive the list of "friendly countries" with which Jordan exchanges information concerning terrorist activities

Jordan reiterates, as stated in its first supplementary report, that, with a view to achieving their desired objective, States do not openly discuss their security arrangements. In addition, no unity exists in this regard, inasmuch as the security of both Jordan and other States would be affected.

1.12. Progress report on the enactment of legislation to implement the Conventions ratified by Jordan in the field of counter-terrorism

The Constitutional regime includes the principle that international conventions and obligations are added to domestic legislation, becoming a part of national law. As mentioned at the outset of this report, Jordan ratified the International Convention for the Suppression of the Financing of Terrorism by virtue of a provisional law, owing to the fact that the National Assembly was not sitting at that time and due to the existence of necessity within the meaning of article 94 of the Constitution, whereby the executive power is permitted to issue a provisional law.

When general elections were held and sessions of the National Assembly were convened, the law was referred to the Legal Committee of the Chamber of Deputies, where it is currently being discussed. It is hoped that it will be enacted in the near future.

1.13. Receipt of reports or questionnaires presented by organizations involved in monitoring international standards

Attached hereto is a copy of the report prepared by the Arab Office of Criminal Police on follow-up of the implementation of the Arab Convention for the Suppression of Terrorism.

In conclusion, Jordan reaffirms its full cooperation with the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism and its readiness to receive future comments of the Committee.

United Nations S/2003/1173

Security Council

Distr.: General
15 December 2003

Original: English

Letter dated 4 December 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 13 November 2002 (S/2002/1254).

The Counter-Terrorism Committee has received the attached third report from Morocco submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

03-65787 (E) 060104 060104

Annex

[Original: French]

Note verbale dated 3 December 2003 from the Permanent Mission of Morocco to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

The Permanent Mission of the Kingdom of Morocco to the United Nations presents its compliments to the Counter-Terrorism Committee and has the honour to transmit to it, enclosed herewith, the third report of the Kingdom of Morocco on the implementation of Security Council resolution 1373 (2001) (see enclosure).

Enclosure

[Original: French]

Third report of the Kingdom of Morocco to the Counter-Terrorism Committee established pursuant to Security Council resolution 1373 (2001)*

This report is being submitted pursuant to letter S/AC.40/Sub.Co.B/OC.73 of 8 October 2002 from the Counter-Terrorism Committee concerning the consideration of the second report submitted by Morocco, dated 10 July 2002, in which the Kingdom of Morocco informed the Committee of its intention to draft laws with respect to combating terrorism.

Since then, the Kingdom of Morocco has adopted specific legislation to suppress terrorist crimes and prevent the financing of terrorism. It has completed the ratification procedure of all international conventions that are directly or indirectly related to terrorism.

The Kingdom of Morocco, determined to spare no effort to combat terrorism, in accordance with international law and the international commitments that it has undertaken, is submitting herewith its replies to the questions by the Counter-Terrorism Committee.

1.2. In the context of paragraph 1 of the resolution, the Counter-Terrorism Committee looks forward to receiving a report on the anti-money-laundering legislation that Morocco intends to put in place in order to be also in a position to prevent and suppress the financing of terrorism. In particular, please explain the measures Morocco proposes to introduce in order to ensure transparency and accountability in the transmission of funds by financial institutions and alternative remittance systems.

In the context of combating money-laundering and the financing of terrorism, Morocco has drafted a bill concerning those two scourges. However, in the light of the urgent need to combat terrorism, Morocco considered it appropriate to begin with the adoption of Act 03-03 on combating terrorism, published in No. 5112 of the Official Bulletin of the Kingdom of Morocco, dated 29 May 2003. This Act provides for several measures in the framework of combating the financing of terrorism, including, in particular:

- Criminalization of the financing of terrorism. Article 4-218 of the Act defines a terrorist act as "the provision, raising or management of funds, securities or property, by whatever means, directly or indirectly, with a view to seeing them used, or in the knowledge that they will be fully or partly used, to commit a terrorist act, regardless of whether such an act occurs; and assisting or providing advice to achieve that end." Such offences are punishable by a prison term of 5 to 30 years and fines of 500,000 to 5 million dirhams. Persons found guilty of financing terrorism are also subject to confiscation of all or part of their property.
- Lifting of bank secrecy. Title IV of the aforementioned Act devoted to the suppression of the financing of terrorism will be incorporated into the Code of

* Annexes are on file with the Secretariat and are available for consultation.

Criminal Procedure. It gives judicial authorities the opportunity during any inquiry to obtain information on financial transactions or movements of funds suspected of being used to finance terrorism within 30 days of a request for such information. Judicial authorities may declare a freeze on or seizure of funds suspected of being used for terrorism. Banks may not invoke professional secrecy before these authorities or the Bank Almaghrib (the Central Bank) (article 595-4).

- The protection of agents responsible for conducting special investigations concerning suspicious transactions from any threat or pressure while carrying out their duties. With respect to any deeds and acts carried out while missions entrusted to the Bank Almaghrib or other banks, in accordance with the law against terrorism, are being conducted, no prosecution or civil action may be undertaken against those establishments or their directors or agents. Furthermore, by requiring those directors and agents to take every necessary measure to ensure the secrecy of the investigations, the use of information gathered for purposes other than those provided for under the law is prohibited (article 595-5).

- The adoption of the principle of international cooperation in efforts to combat the financing of terrorism. (See the response to question 1.10.)

- With respect to the penal provisions under Act 03-03 on combating terrorism, it should be specified that they have been incorporated into the first part of the third chapter of the Criminal Code.

1.3. Effective implementation of paragraph 1 requires that the legal obligation to report suspicious transactions should extend to all professions engaged in financial transactions (such as lawyers and accountants) and not only to financial institutions. All these persons should be subjected to penalties for non-compliance in order to enable the effective prevention of the financing of terrorism. The Committee notes Morocco's intention to put financial institutions under an obligation to report suspicious transactions; but it would be grateful if Morocco would comment on the action it intends to take in regard to all professions involved in financial transactions (including as intermediaries).

The Kingdom of Morocco plans to require people working in professions, in addition to banking and financial institutions, to submit suspicious-transaction reports.

1.4. Having taken note of Morocco's intention to criminalize the financing of terrorism along the lines of the International Convention for the Suppression and the Financing of Terrorism, the Committee would be interested to know how Morocco will implement article 2 of the Convention in its domestic criminal law.

After the ratification by the Kingdom of Morocco of the International Convention for the Suppression of the Financing of Terrorism and its publication in the Official Bulletin (No. 5104 of 1 June 2003), a copy of which is included in an annex, article 2 of this Convention has been taken into consideration in the final drafting of amendments introduced into the Criminal Code and Code of Criminal Procedure in compliance with the law against terrorism, particularly concerning the definition of terrorism and an increase in applicable penalties.

Indeed, Act 03-03 classifies as terrorist crime any crime committed intentionally in relation to an individual or collective activity with the goal of causing serious disruption of public order by intimidation, terror or violence; penalties have been increased, including the death penalty, and custodial sentences have been doubled.

1.5. Effective implementation of paragraph 1 of the resolution also requires the existence of legal provisions or administrative measures that ensure that funds and other economic resources collected by non-profit organizations (e.g. religious, charitable or cultural organizations) are not diverted for other than the stated purposes, particularly for financing of terrorism. Please explain whether such provisions or measures are in place in Morocco and, if not, how Morocco proposes to monitor the use of funds by non-profit organizations.

Any collection of donations by charitable or religious organizations requires in all cases the authorization of competent authorities, namely the General Secretariat of the Government, and all funds originating from abroad and earmarked for Moroccan associations must be declared to this department. The aforementioned authorization is governed by the Act of 12 October 1971 on public fund-raising and the Act on associations (Dahir [royal decree] of 23 July 2002, a copy of which is included in the annex). Any infringement of this procedure shall be punished by the judicial authorities, and the penalty may include the disbanding of the association. Notwithstanding the legislation on public fund-raising, associations recognized as being in the public interest may, once a year and without prior authorization, raise funds publicly or collect money through other authorized means. However, they are required to make a declaration to the Secretary General of the Government (article 9 of the Dahir of 23 July 2002).

1.6. The Committee has taken note of Morocco's intention to put in place legal provisions allowing for the freezing of terrorist funds. The Committee would also be particularly interested in an outline of the procedure which will lead to the freezing of such funds upon request of foreign authorities.

In compliance with the international conventions to which Morocco is party, the law against terrorism establishes a cooperation regime at the international level to combat the financing of terrorism. In that context, it authorizes the Government, upon a request by a foreign State, to refer the matter to the judicial authorities in order to take the following measures:

1. Investigation and identification of proceeds from the financing of terrorism and property that has served or was meant to be used to commit such an offence or any property whose value corresponds to the proceeds from such an offence;

2. Freezing and seizure of property;

3. Protective measures in respect of property.

A decision to freeze or seize funds handed down by a foreign judicial authority may also be implemented in Moroccan territory in accordance with the content and form of the conditions set by the aforementioned law. The Moroccan justice system has frozen the bank account of Said Bahaji, who was included on the consolidated list established by the Sanctions Committee pursuant to Security Council resolution 1267 (1999).

1.7. In the context of subparagraph 2 (a) of the resolution, please outline the legal provisions and regulations regarding the possession, manufacture and transfer of weapons and explosives to which Dahir No. 1-58-286 of 2 September 1958 refers.

I Explosives

The legislative and regulatory documents that govern this area are as follows:

- Dahir of 14 April 1914 on regulation of the production of explosives, amended and supplemented by the dahirs of 22 July 1938 and 24 February 1940;
- Dahir of 30 January 1954 on the monitoring of explosives;
- Dahir of 14 January 1914 regulating the importation, movement and sale of explosives in Morocco and setting the conditions for setting up warehouses, amended and supplemented by the Dahirs of 14 March 1933, 9 May 1936, 24 February 1940 and 30 January 1954.

II Weapons and ammunition

Weapons and ammunition are governed by the Dahir of 31 March 1937 regulating the importation, trade, carrying, possession and storing of weapons and their ammunition in Morocco. The importation of weapons other than weapons of war and their ammunition is subject to prior authorization issued by the Director General of Police or his deputy, in consultation with the local authority (articles 1 and 2). Trade in weapons and ammunition is subject to licensing granted by the Director General of Police or his deputy. Furthermore, permits to carry non-concealed weapons are issued by the local authority representing the central authorities, in consultation with the security services. Permits to carry concealed weapons are issued by the Director General of Police in consultation with the local authority.

Dahir No. 1-58-286 of 2 September 1958 on penalties for breaches of the regulations on firearms and explosives stipulates a prison term of 20 years for the possessor of weapons, ammunition, explosive material and deadly or incendiary instruments or tools.

1.8. Please provide the Committee with a copy of the relevant amendments to the penal legislation of Morocco, once enacted. In this context, the Committee would be interested to know when these amendments are expected to enter into force.

The relevant amendments were introduced by Act 03-03 on combating terrorism published in No. 5112, dated 29 May 2003, of the Official Bulletin of the Kingdom of Morocco, a copy of which is included in an annex. These amendments entered into force, with respect to procedure, on the date of their publication in the Official Bulletin with and, with respect to substance, on 1 October 2003.

1.9. Please explain by which legal provisions Morocco is able to prevent the entry on its territory of alleged terrorists.

A law on the entry and stay of foreigners in the Kingdom of Morocco and illegal emigration and immigration was adopted by the Moroccan parliament on 23 June 2003 (a copy of which is included in an annex). According to its provisions, particularly article 42, any foreigner who enters or attempts to enter Morocco in breach of the law is liable to a prison term of one to six months and a fine of between 2,000 and 20,000 dirhams, and the administration may deport him "in the

interest of security and public order needs". A foreigner may be deported if his registration card or residence permit has been revoked for reasons of a "threat to public order" (article 21). This law also stipulates in articles 14 and 16 that registration cards and residence permits may be refused to any foreigner "whose presence in Morocco constitutes a threat to public order". Chapter IV (articles 25 to 27) deals with the deportation of foreigners, as follows:

- A foreigner who poses a serious threat to public order falls under article 25;
- Article 26 stipulates that "no time limit on deportation is required if the sentence involves an offence concerning terrorist-related activity".

1.10. Please outline the existing or proposed legal provisions that criminalize the use of Moroccan territory for the purpose of financing, planning, facilitating or committing terrorist acts against other States or their citizens. Effective implementation of subparagraphs 2 (d) and (e) of the resolution requires that such provisions should be incorporated in the penal law of Morocco.

Morocco, aware of its role in the maintenance of peace and stability in the world, prohibits the entry, accommodation or stay of terrorist elements in its national territory. The Moroccan criminal code punishes the use of national territory for the planning, organization or carrying out of terrorist crimes. Our international commitments are in line with this. Accordingly, the Arab Convention on the Suppression of Terrorism, to which Morocco is party, prohibits the use of national territory to plan, organize or carry out terrorist crimes against other States.

Moroccan courts are competent to deal with all acts of complicity with or participation in terrorist crimes even if they are committed abroad and by foreigners if the main act was committed in Morocco.

The arrangements of the 1951 Convention relating to the Status of Refugees and the International Convention for the Suppression of the Financing of Terrorism were taken into consideration during the drafting of the law against terrorism.

1.11. Effective implementation of subparagraph 2 (e) of the resolution requires that States ensure that persons who participate in the financing, planning, preparation or perpetration of terrorist acts or who support such acts are brought to justice either by submitting the case without undue delay to their respective competent authorities for the purpose of prosecution or by extraditing these persons. This applies without any exception whatsoever and whether or not the offence was committed in their respective territories. Please explain how, in order to comply with these subparagraphs, Morocco would deal with a foreign national who is in Morocco and has committed a terrorist act outside Morocco against a State other than Morocco or against that State's citizens. Is it possible under current or proposed law to prosecute that person in Morocco if he or she is not extradited? Please outline the relevant domestic legal provisions governing legal assistance in connection with (a) criminal investigations or criminal proceedings relating to the financing or support of terrorist acts and (b) in connection with extradition.

Moroccan legislation does not provide for any proceedings against a foreigner located in Morocco if he has committed a terrorist act abroad against a State other than Morocco or against the nationals of that State.

However, and in accordance with bilateral conventions relating to extradition, he may be handed over to the authorities of a foreign country if the conditions required by Moroccan legislation with respect to extradition are met.

The provisions of title III of book 7 of the Code of Criminal Procedure coordinate the relations between Moroccan judicial authorities and their foreign counterparts and determine the modalities of implementation of letters rogatory and the extradition of criminals if there is no agreement in the field or if existing agreements are not brought to bear on the matter.

Judicial cooperation in criminal matters is provided for in articles 713 to 749 of the Code of Criminal Procedure. The modalities for such cooperation are defined in articles 189 to 193 of the Code.

Articles 718 to 745 of the Code of Criminal Procedure provides for extradition by laying down the form and content of the conditions for its implementation.

1.12. Subparagraph 3 (d) of the resolution requires all States to become parties as soon as possible to all the relevant international conventions and protocols relating to terrorism. The Committee would appreciate receiving information on the progress made by Morocco in relation to becoming a party to the following:

- *International Convention against the Taking of Hostages;*
- *The Convention on the Physical Protection of Nuclear Material;*
- *The International Convention for the Suppression of Terrorist Bombings; and*
- *The International Conventions for the Suppression of the Financing of Terrorism.*

The International Convention for the Suppression of the Financing of Terrorism was ratified by Dahir No. 4.02.2 of 23 July 2002 and entered into force for Morocco on 19 October 2002.

The Convention on the Physical Protection of Nuclear Material was ratified by Dahir No. 4.91.3 of 23 July 2002 and entered into force for Morocco on 22 September 2002.

The procedures for acceding to the International Convention against the Taking of Hostages and the International Convention for the Suppression of Terrorist Bombings are in their final stages.

1.13. According to subparagraph 3 (g) of the resolution, States are required to ensure "that claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorists". Similar provisions exist in the Financing Convention (article 14) and in the Terrorist Bombing Convention (article 11). Subparagraph 3 (g) applies not only to persons who have committed offences according to article 2 of the International Convention for the Suppression of the Financing of Terrorism, but to all alleged terrorists. The Committee looks forward to receiving a progress report on the action taken in order to adapt Moroccan legislation, and the extradition treaties Morocco has concluded with other countries, to the requirements of subparagraph 3 (g) of the resolution.

The above-mentioned provisions concerning extradition and some bilateral legal conventions do not allow for extradition if the crime or offence is political in nature or if it appears that the request for extradition was made for political reasons.

However, after its ratification of the International Convention for the Suppression of the Financing of Terrorism, Morocco will be in compliance with the provisions of paragraph 5 of article 11 of that Convention, which stipulates that: "The provisions of all extradition treaties and arrangements between States Parties with regard to offences set forth in article 2 shall be deemed to be modified as between States Parties to the extent that they are incompatible with this Convention".

Concerning the punitive provisions under Act 03-03 on combating terrorism, it should be recalled that they have been incorporated into the first part of the third book of the Criminal Code.

United Nations S/2003/1174

Security Council

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Letter dated 8 December 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 25 April 2003 (S/2003/475).

The Counter-Terrorism Committee has received the attached third report from Latvia submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

03-65800 (E) 020104

Annex

Note verbale dated 4 December 2003 from the Permanent Mission of Latvia to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

The Permanent Mission of the Republic of Latvia to the United Nations presents its compliments to the Counter-Terrorism Committee and, with reference to the letter of the Chairman of the Committee dated 2 April 2003, apologizes for the delay and has the honour to forward, enclosed herewith, the answers to the questions and comments of the Committee with regard to the supplementary report provided by the Republic of Latvia (see enclosure).

Enclosure

ANSWERS TO THE QUESTIONS AND COMMENTS OF THE COUNTER-TERRORISM COMMITTEE WITH REGARD TO THE SUPPLEMENTARY REPORT PROVIDED BY THE REPUBLIC OF LATVIA

CTC comment 1.2 : For an act to constitute an offence as described above it is not necessary that the funds are actually used to carry out a terrorist offence (see article 2, paragraph 3 of the International Convention for the Suppression of the Financing of Terrorism. The current provisions of the law of Latvia do not appear to meet the abovementioned requirements adequately.

As already stated in the supplementary report Latvia has ratified International Convention for the Suppression of the Financing of Terrorism on 26 September 2002 and furthermore it has ratified all other major international anti-terrorism conventions. According to law of Latvia all international legal instruments when ratified become legaly binding and are directly applicable in the judicial system of Latvia.

CTC comment 1.3: The CTC would appreciate receiving a progress report on the enactment of amendments, aimed at supplementing the provisions of Article 88 of the Criminal law, with a view to establishing the financing of terrorism, terrorist groups or terrorist acts (item 53 to 69 of the supplementary report) as a separate criminal offences.

Amendments prepared by the Ministry of Justice stating the financing of terrorism, terrorist groups or terrorist acts as a separate criminal offences were adopted by the government. Amendments later were rejected by the Parliament by saying that there is no further need to amend the Criminal law and particularly Article 88, which states terrorism as a criminal offence clearly enough.

CTC comment 1.4: The supplementary report states that under the Credit Institution Law an adjunction by a court or a sanction from a prosecutor is required before financial assets of lawful origin can be frozen. The CTC would therefore appreciate receiving further information from Latvia in relation to its legal provisions for freezing funds which are suspected of being linked to terrorists, but which have not yet being used in the commission of terrorist acts. Please provide particulars of how Latvia meets, or proposes to meet, that requirement.

No amendments have been made to the Credit Institution Law since supplementary report was submitted. The abovementioned law states in its section 65 the following:

"(1) Attachment of the monetary funds and other valuables of legal persons, which are placed at a credit institution, or imposition of arrest on them may only occur on the basis of a court issued execution document, a bailiff's order or by the sanction of a prosecutor, but a partial or complete suspension of the account operations of such persons shall be performed at the request of the State Revenue Service.

(2) Collection of the monetary funds and other valuables of legal persons may be exercised on the basis of a court issued execution document, a bailiff's order or also at the request of the tax

administration – in cases provided for in the tax laws, but at the request of the State Revenue Service – also in cases provided for by other laws.

(3) Collection of the budgetary funds of local governments, which are located at a credit institution, may be exercised by uncontested procedures at the request of the State Treasury in cases provided for by other laws."

The Law "On Prevention of the Laundering of the Proceeds from Crime" obliges every credit institution or financial institution to refrain from conducting a transaction if there is a cause to suspect that this particular transaction is associated with the laundering or attempted laundering of proceeds of crime. Funds of persons who commit, attempt to commit, participate in or facilitate the commission of terrorist acts are considered to be proceeds of crime according to Latvian law.

CTC question 1.5: The supplementary report states in item 39 that money transmission services are considered as a "financial transaction" and in item 40 that "every financial and credit institution affined to or involved in financial transactions for the purpose of preventing the use of these financial transactions for money laundering and funding of terrorism". Would these provisions cover the alternative money transfer mechanisms or agencies?

Provisions outlined in items 39 and 40 of the supplementary report are applicable to all financial institutions and credit institutions without any exemptions as regards to "alternative money transfer mechanisms or agencies".

CTC comment 1.6: Effective implementation of paragraph 1 of the Resolution also requires an appropriate monitoring mechanism (involving for example, registration and auditing requirements) to ensure that the funds collected by organizations, which have or claim to have charitable, social or cultural goals are not diverted to purposes other than their stated purposes.

According to the Law "On public organizations and associations" a fund can be established only when registered as a public organization in Register of Enterprises. Such a fund should have a statute where it is clearly stated for what purpose it collects donations and how these will be spent afterwards. There is a special provision set out in Council of Ministers Regulation, under which each fund after being registered as mentioned above, is obliged to receive permit from the Ministry of Finance for receiving donations. The Ministry of Finance is entitled to audit these funds and in case donations are being spent other than stated in statute and permission, to recall that permission. By all means complaint can be brought before the competent authorities to examine possibility of unlawful actions.

CTC comment 1.7: The CTC is aware that Latvia may already have covered some or all of the points in the preceding paragraphs in reports or questionnaires submitted to other organizations involved in monitoring international standards.

Latvia has not submitted to other organization any other report or questionnaire related to the points covered by two previous reports made to CTC and these additional answers.

CTC comment 1.8: The CTC would appreciate receiving a progress report on the drafting and enactment of the Law on Criminal Procedure.

In June this year a new Law on Criminal Procedure has been passed over to Parliament for approval. The law should be considered in three readings, first of which took place on June 18, 2003. Now there is a period for submission of proposals before the second reading.

CTC comment 1.9: The CTC would be grateful for a progress report on the implementation in domestic law of the international instruments relating to terrorism, which Latvia has already ratified.

Latvia would like to refer to previous reports and confirm once more, that it has ratified all major anti-terrorism conventions and provisions set out in these conventions are directly applicable and thus they have impact on domestic law.